SPEECH OF MR. STEPHENS,

On the President's Message of August 6, 1850, concerning Texas and New Mexico.

EIN THE HOUSE OF REPRESENTATIVES, AUGUST 9, 1850. The House being in Committee of the Whole on the state of the Union, and having under consideration the Civil and Diplomatic Appropriation Bill for the fiscal year ending 30th of June, 1851, (Mr. Burr, of South Carolina, being in the

Mr. STEPHENS, of Georgia, addressed the committee

Mr. CHAIRMAN: The most interesting of the many interesting subjects which are now pressing themselves upon the consideration of this House and the country, in my opinion, is the message communicated a few days ago by the President to Congress upon the subject of the Texas boundary, and the difficulties and embarrassments attending that question. and the difficulties and embarrassments attending that question. That message is now upon your table. It deserves our immediate consideration, and demands wise, prudent, and speedy action. I propose, therefore, in what I have to say upon this occasion, to confine myself to the general topics embraced in it; and it is a matter of regret to me, in the midst of so many disquieting and irritating causes which now distract and stir up the public mind, to see that we are likely to have new elements of strife and contention, to excite and inflame those strong sectional feelings which for some time past have so unhappily existed among us. These and inflame those strong sectional feelings which for some time past have so unhappily existed among us. These elements are to be found in the message alluded to. The principles assumed by the President in that paper are, in my judgment, in several particulars, unsustained by the Consti-tution and laws of the United States, and dangerous in their tendencies, not only to the rights of the States, but to the liberties of the people. They strike at the very foundation upon which the whole structure of our system of representative republican government was reared, and upon which alone it can permanently stand. This, I know, is strong language, but no stronger than the truth requires to be speken. There is no principle more essential to the preserva-tion of our Government than that the military in time of peace shall be subject to the civil power. The message is in opposition to this principle. The President informs us that, "by the Constitution of the United States, the Presi-dent is constituted commander-in-chief of the army and navy, and of the militia of the several States, when called into the actual service of the United States. The Constitution de-clares also that he shall take care that the laws be faithfully executed, and that he shall, from time to time, give to the Congress information of the state of the Union."

This, sir, is true. By the Constitution the President is

the commander-in-chief of the army and navy of the United States, and the militia of the several States when called into the actual service of the United States; and it is his duty to see that the laws are faithfully executed. This is all true. But there is something else equally true, and that is, that in seeing that the laws are faithfully executed, he must himself act in subordination to law, and in conformity with the provisions of the laws which point out the mode of their execution. And he can use the military to execute no law which contains no provisions for its execution first by the

The President further asserts that "the Constitution the United States declares that 'this Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land." And then he refers to the late treaty with Mexico, and amongst other clauses he refers particularly to the clause which guaranties to Mexicans who may remain in the ceded territory protection in the free enjoyment of their liberty and property, and security in the free exercise of their religion, without restriction. In this way he assumes that the treaty of Guadalupe Hidalgo is such a law as he is bound to see "faithfully executed" in all its obligations. He further informs us that the State of Texas is about to extend her civil jurisdiction over a portion of country lying this side of the Rio Grande within the limits of the boundary of Texas as originally claimed and asserted by her, but which, in his opinion, belongs to the General Government, and not to Texas, by virtue of the cession made by the late treaty. And without suggesting the slightest cause to apprehend that any of these rights of "liberty, property, and religion," guarantied to Mexicans under the treaty, would be interfered with by the extension of the civil jurisdiction of Texas over those of them residing east of the Rio Grande, even if they were included in the terms of the treaty, he tells us that he feels bound to resist such extension of her jurisdiction by Texas, and if necessary to repel it with the military force of the Government at his control. By information received from Texas, no one can doubt that she intends to maintain her civil authorities coextensive with the boundary claimed by her. And we have the issue fairly presented, whether the President has the rightful power, under the Constitution and laws of the United States, as those laws now exist, to use the military power at his command against the authori-I maintain that he has not. I meet the question at the threshold. It is one of the most important that has ever arisen in this country; and its decision, if force should be resorted to, cannot fail to mark an era in its his tory. I deny to the President the power he claims; and I assert that, under the Constitution and laws, he has no power, in time of peace, "in seeing that the laws are faithfully executed," to resort to military force, except when their due execution by the courts—the legally constituted tribustructed or resisted. This proposition I lay down distinctly, broadly, and confidently. It is above the reach of assailment, and beyond the power of refutation. And I maintain, fur-ther, that the very laws cited by the President, from which he claims the exercise of the extraordinary and unwarranted power he does, sustain the proposition. These very acts do not, in the slightest degree, confer the power which he

cise under them.

Nov, sir, let us see. He cites the 2d section of the act of Congress of 1795, and the act of the 3d March, 1807. But perhaps I would be better to refer to the acts, as he himself cites them. Here is what he says:

notices to Congress and the country that he intends to exer-

"The 2d ection of the act of the 28th of February, 1795, declares that whenever the laws of the United States shall be opposed, or heir execution obstructed, in any State, by combinations to converful to be suppressed by the ordinary course of judicial voccedings, or the power vested in the marshals, the Pressent may call forth the militia, so far as

marshals, the President may call forth the militia, so far as may be necessary to uppress such combinations, and to cause the laws to be day executed.

"By the act of Marcha, 1807, it is provided that, in all cases of obstruction to the way, either of the United States or any individual State or erritory, where it is lawful for the President to call forth be militia for the purpose of the property of the law to be duly as which is shall be lawful for causing the laws to be duly excuted, it shall be lawful for him to employ, for the same purposes, such part of the land or naval force of the United States as shall be judged ne-

These are the acts of Congress upor which he relies. The first, it will be perceived, only authorize him in certain cases to call out the militia; the second authorizes him in all simlar cases to use the army and navy if neessary. He has however, no authority, under either act, to be the army and navy, or to call out the militia, for the purpe of aiding in navy, or to call out the militia, for the purpe of aiding in the execution of the laws, except in such cass as are provided for by the act of 1795. And what are those case? They are such as where the laws may be opposed in their execution, or obstructed in any State, by combinations so powerful to be suppressed by the ordinary course of redicial proceedings, or the power vested in the marshals. It is is the only class of cases where the President is authorized to want the military force of the country to aid in the execution. use the military force of the country to aid in the execu-tion of the laws of the United States. It is where the du-course of law, through the courts and by the marshals, is opposed and obstructed, or where the combinations in resistance to law "are too powerful to be suppressed by the ordi-nary course of judicial proceedings, or the power vested in

Now, sir, is there any such case, or is there likely to be any such case, in the territory over which Texas is about to establish her jurisdiction? Is there any law, any act of Congress, in force there, which cannot be executed in the ordinary course of judicial proceeding! No one will assert there is either any law or "judicial proceeding" authorized by law in that country, known to your statute book. You have passed no law for the country, even on the supposition that it rightfully belongs to you, and not to Texas. If the country belongs to the United States by conquest, as the President says, then its government devolves upon Congress. But Congress, as yet, has provided no government for it. They have given the people there no law defining rights, or courts for the redress of wrongs. But the President says that the treaty is a law, and that he is bound to protect the rights which it secures. But, sir, I deny that the obligations of this treaty, or any treaty, weighty as they may be, which of this treaty, or any treaty, weighty as they may be, which require legislation for their proper execution and fulfilment, can be discharged and performed by the President, unless he be first empowered by the necessary laws. I grant that this Government, by the ratification of this treaty, assumed obligations towards certain Mexicans which ought in good faith to be observed. But it does not follow that the President is to assume the discharge of these obligations himself. The same treaty put us under obligation to pay the Government of Mexico twelve millions of dollars—that was as much the law of the land as the guarantee of rights now under ports upon as good terms as those we extended to the most favored nations bringing like products. This stipulation was as much the law of the land as the obligations to these Mexicans; and yet it required an act of Congress to carry it into effect and secure the rights under it—that is, to active the country to suit the law of the country to suit the

stipulations of the treaty. The President could not have enforced the rights secured to British subjects under that treaty by an executive order; neither can the President fulfil treaty by an executive order; neither can the President fulfil the existing obligation to pay Mexico the balance of what is due her of the twelve millions, without the concurrence of Congress. No idea could be more erroneous than to suppose, because a treaty is the law of the land, that the President can of himself assume the fulfilment of its obligations when those obligations do not rest upon him alone, but upon the Government in all its departments—legislative, judicial, and executive. And that is the case now before us. The obligations of this treaty as to the rights of "liberty, property and executive. And that is the case now before us. The obligations of this treaty as to the rights of "liberty, property, and religion," on the part of the Mexicans, rest not upon the President alone, but upon the Government of the United States—the law-making, the law-expounding, and the law-executing powers conjointly. The law-making power must first speak. Laws defining rights and wrongs must be first passed. Courts must also be instituted to expound those laws, and marshals must be duly appointed to execute their passed. Courts must also be instituted to expeund those laws, and marshals must be duly appointed to execute their mandates. And if the execution of the laws thus passed be opposed by combinations too powerful to be suppressed by the ordinary course of judicial proceeding thus established, then, and not till then, would the President be justified, under existing laws, to resort to the military force for the protection of the rights secured by that article of the treaty. By the Constitution of the United States it is expressly provided that cases arising under treaties shall be determined provided that cases arising under treaties shall be determined by the judiciary. The military, in this country, by no law in your statute book, can be called out in time of peace, but in aid of the execution of laws in the channels of the courts, or in assistance of the marshals in the discharge of duties vested in them by law. If the President therefore shall, in the contingency he apprehends, use the military forces at his command against the authorities of Texas, it will be without authority of law-a daring usurpation of power, and a gross violation of the Constitution of the United

Mr. Chairman, one of the surest safeguards of public liberty is, that in time of peace the military shall be subor dinate to the civil authority. And one of the gravest charges brought against the King of England in that long list of abuses of power enumerated in our Declaration of Indepen-dence, and which lost him the American colonies, was that of quartering troops in the colonies without the consent of the legislatures, and of rendering "the military independent of, and superior to, the civil power." Sir, this principle dates back anterior even to that. It constitutes the soul and spirit of Magna Charta itself. The old barons of England at Runnymede, in 1215, achieved for themselves, their nation, and mankind, no greater or more important principle than that which compelled King John to grant that in all time to come within his realm—

" Nullus liber homo capiatur, vel imprisonetur, aut dis aisiatur, aut utagetur, aut exuletur, aut aliquo modo de struatur; nec super eum ibimus, nec super eum mittimus, nisi per legale judicium suorum, parium vel per legem

"No freeman shall be seized, or imprisoned, or dispos sessed, or outlawed, or in any way destroyed; nor will we condemn him, nor will we commit him to prison, excepting by the legal judgment of his peers, or by the laws of the

This principle has remained unshaken in England for upwards of six hundred years. Our ancestors brought it with them to this western continent. The framers of our Constitution reproduced it, somewhat modified in form, but the same in spirit and substance, in that great charter of power by which every officer of this Government is limited and controlled. The fifth article of the Constitution of the United States provides that-

"No person shall be deprived of life, liberty, or property, without due process of law."

The sixth article is in these words:

"In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascer-tained by law; and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.'

Now, sir, I ask if a man can be rightfully shot down by an armed soldiery in pursuance of an Executive order, for doing what he could not be even indicted and tried for doing, much less convicted of any offence for doing, by any court or code known to the laws of the land? Can the President rightfully order the army to shoot citizens of the country in time of peace, who are guilty of no crime, or a violation of no law 1 Can a man in this country, by an order from the Chief Magistrate, be deprived of his life in time of peace "without due process of law?" here is no law there can be no transgression. You will observe, Mr. Chairman, that I am only considering this question as it now stands. I have, as yet, said nothing about what would be the condition of things if Congress should undertake to establish a Government for New Mexi-co this side the Rio Grande. If courts should be estab-lished there, and if laws should be passed prescribing the manner of determining by judicial proceedings the rights of Mexicans residing there, under the treaty, and clothing the President with power to call to the aid of the civil authorities the military force in case the execution of such laws should be resisted, that would present a very different question from the one now before us. The President has not invoked our aid, nor asked us to pass any laws that may be us to pass any law to enable him to use the military force of the country for that purpose. He has simply announced what he intends to do in certain contingencies, without authority of law.

If a proposition was before us to pass a law authorizing the President to resist the authority of Texas in extending her jurisdiction in that part of the country to which reference has been made, that would present the question whether there is any constitutional power in the General Government to coerce one of the States of the Union. That is question I do not now wish to discuss. It is not now before us. If a bill be brought in to confer this power on the President, then I shall meet it. That was the distinct quesion presented in 1833 between this Government and the State of South Carolina. The position assumed by Mr. Fillmore is far outside of that assumed by General Jackson. General Jackson seems never to have dreamed of relying on the acts of 1795 and 1807, although there would have been much more reason for his doing so in that case than the present Chief Magistrate, in the case before us. For, in South Carolina there were revenue and judiciary laws in force. And in case their execution had been obstructed, there would have been much more justifiable ground for calling out the military force than there is in this case, when there is no law to obstruct, and no judiciary to appeal to, in the first instance. But General Jackson came to Congress with a message, and asked an amendment of the laws providing for the collection of the revenue, to meet the emergency created by the ordinance and laws of South Carolina And he further asked an amendment of the acts of 1795 and 1807, so as to give him full power to call to his aid the military forces of the country in case the judiciary should prove unable to execute the amended laws by reason of reistance to its process or judgments. In accordance with his views, the act (well known as the force bill) was passed, which expired by its own limitation in twelve months from its date. The constitutionality of that act was very much questioned by many at that time. But that is not the matter I am now discussing. It is not even whether General Jackson, without that act, could have exercised all the powers it conferred on him; but it is, whether the President shall make his own judgment of the rights of a treaty, without any judicial investigation, the law of the land, and use the military force to carry that private judgment of his into execution. It is simply, whether we are to be under

imilitary rule or a government of laws. The President says that the question of Texas boundary is one that he cannot decide. In this opinion I fully con-cur. This is a matter he has no more power to decide than you e I. And until it is determined by agreement between this Gwernment and Texas, or by judicial proceedings, it is beyond his province to give even an opinion one way or the other. But how he can assume to say that the Mexicans on the side the Rio Grande are not within those limits over which Texas can rightfully extend her civil jurisdiction, without a the same time undertaking to decide the question of boundary, I cannot understand. These two positions of the resident, to my mind, are irreconcilable. If any man can show how he can say to Texas, "Thus far you may go and no arther," without deciding the question boundary, I stould like to hear him. That is certainly a decision, and a most emphatic decision of the ques-It is a decision in the last resort to be executed by

force. And, moreover, it is an Executive decision, without color of authority. Nothing else can be made of it.

As to the position that the United States troops were left in the territory at the termination of the war, and that it is consideration; and yet the President, I presume, would not dare to put his hand into the Treasury, and pay what is due under that stipulation, without the authority of an act of appropriation. In our treaty with Great Britain, in 1815, establishing, to some extent, a reciprocity in trade, it was provided that goods and merchandise, and products coming from certain British possessions, should be admitted into our ports upon as good terms as those we extended to the most favored nations bringing like products. This stipulation, without the authority to do so. And until Congress makes some disposition of it, or-gives him authority to hold it by force, he has no right or power to do it. Until Congress speaks, he has no authority to defend by force the military possession of the United States of any portion of their late acquisitions from Mexico. How has it been in California? There we have seen this possession, which it is said he is bound to defend, entirely abandoned; and the whole country taken possession of by people coming from all covers. disposition of it, or gives him authority to hold it by force, has no right or power to do it. Until Congress speaks, There we have seen this possession, which it is said he is bound to defend, entirely abandoned; and the whole coun-

the President cannot interiere there without the virtual decision of the question of Texas boundary, which he admits that he has no right to decide.

I now go further; and I maintain that if Texas should be resisted by the Mexicans in this portion of the territory lying within her prescribed limits, and should apply to the President for assistance to put down that resistance while

"And in case of an insurrection in any State against the Government thereof, it shall be lawful for the President of the United States, on application of the Legislature of such State, or of the Executive, (when the Legislature cannot be convened,) to call forth such number of the militia of any other State or States as may be applied for,

'minua of any other state or states as may be applied for, 'as he may judge sufficient to suppress such insurrection."

These people, it is well known, reside within the limits of Texas according to the boundaries prescribed by her own laws. The law of boundary of that State the President is as much bound to respect and have enforced as any other law of Texas, or any other law of any other State, or any law of the United States, unless it be inconsistent with the Constitution of the United States, or some law or treaty of the United States. I repeat, sir, the President is as much bound to regard all constitutional laws of the respective States as he is the laws of the United States. And if called upon in pursuance of the act of 1795, just read, he is as bound to assist a State in putting down resistance to the execution of any of her constitutional laws, as he is to see to the execution of the laws of the United States. And, as it is a question which he cannot decide, he is bound to regard the laws of Texas, whether defining her boundary or regard the laws of Texas, whether defining her boundary or extending her jurisdiction, as valid, unless it comes in con-flict with the Constitution, or some law or freaty of the United States. Now, sir, is there anything in this law of Texas inconsistent with the late treaty with Mexico? I do not intend now to go into a discussion of the Texas

boundary. I did this a few days ago. I do not now wish to repeat what I then said. I will barely enumerate some points. You and this House well recolled that do not consider the question now as it stood before the war. Texas, as an independent State, was annexed and almitted into the Union with such territorial limits as rightfully be-longed to her at that time. Her rights were founded altogether upon the right of successful revolution, and their extent, in my opinion then, was to the limits over which she had established her jurisdiction. Her limits were such as she had successfully marked by the sword. I did not then believe, nor do I now believe, that she had thus established her jurisdiction to the extent of her claim. But the settlement of her boundary with Mexico was reserved for this Government. And this Government, without waiting for peaceful negotiation, proceeded by force of arms to assert her rights to the extent of her claim. The then President, Mr. Polk, maintained that her proper boundary rightfully extended to the Rio Grande, from its mouth to its source; and this position was maintained in the act declaring war, majorities in both branches of Congress. It did not receive my vote, for I did not believe it to be true. But it received the sanction of this Government in both the executive and legislative departments. The Government of the United States, therefore, I consider to be fully committed on this point. Unless we are disposed to disregard the public faith most solemnly plighted, we are, in my opinion, estopped by the record. It was upon the assertion of these rights of Texas to the Rio Grande from its mouth to its source, that the war was declared. It was in vindication of the rights of Texas to extend her jurisdiction under her laws and Constitution to the limits of her Territorial claim, that the army was ordered to take a position on the east bank of the Rio Grande. The war was the consequence. And now I ask, if there is anything in the treaty that was made at the end of that war inconsistent with those laws of Texas which the war was commenced to enforce ? So far from it, the treaty affirms the boundary to be the Rio Grande up to the corner of New Mexico on the other side of the Rio Grande—then turning westward leaving to Texas, without the slightest restriction, all the territory claimed by her. And, moreover, the treaty has a map accompanying it, which is made part of it, and in which the boundary of Texas is clearly and distinctly set forth, as running with the Rio Grande from its mouth to its source. So far, then, from this treaty containing any-thing inconsistent with the previous laws of Texas, defining and asserting her rights, it does seem to me, upon all the rules of just and fair construction, to affirm and fully estab-lish those rights, and utterly to deprive this Government of all pretext of questioning them, except by bold, open, and

infamous repudiation.

Mr. MOORE inquired whether the resolutions of annexation did not leave it to the General Government to determine the boundary of Texas?

Mr. STEPHENS. The resolutions of annexation conferred upon the General Government the power to settle this question of boundary with Mexico. They give this

Government authority or power over the subject for no other object, and to no further extent. This Government had no jurisdiction over the matter but with Mexico. necessary to execute that article of the treaty, or to enable had no power to say to Texas that her limits should be reeven asked stricted, but in treating with in the treaty with Mexico there is no clause restricting them. Of course she has no power to restrict them now. But, to present the subject to the gentleman in a clearer view, suppose that Mexico had never questioned the right of Texas to the Rio Grande, could this Government ever have done so? Would we not have been bound to maintain her jurisdiction to the extent of her limits prescribed by her laws, and to have put down any insurrection against her laws within those limits! The only contesting party Texas had was Mexico; and when Mexico ceased the test, Texas and the United States stood towards each other ust as they would have stood if no contest had ever arisen, unless in making the treaty which terminated the contest, and where the United States only had jurisdiction, some restriction was imposed upon Texas. If such restriction had been inserted in the treaty, of course Texas would have been bound by it; for this Government had the power in that way to take jurisdiction over it, but in no other way. And as the treaty does not contain any such restriction, and as Mexico is no longer contesting, I maintain that Texas and the United States stand towards each other upon this subject now just as they would have stood if the war had never been waged, and Mexico had never disputed her claim. The gentleman, I trust, understands me, and

feels fully answered.

Mr. STEVENS, of Pennsylvania, asked if it was not ompetent for Mexico to assign her interest in the disputed erritory to the United States, and whether the United States, under the treaty, was not the assignee of that in-

Mr. STEPHENS, of Georgia, continued, No, sir. In the articles of union between Texas and the United States, or the resolutions of annexation, Texas gave this Government no power to become the assignee of Mexico. The only power conferred was to extinguish the outstanding claim. This Government assumed the character of an umpire. She had power to settle the dispute as a disinterested person, but not to become a party to the controversy. become the assignee thereof. And if she had so purchased it, her rights would have been invalid, and the purchase would have inured immediately, according to the well-settled principles of law, to Texas, her cestui qui trust. But, sir, the treaty shows that she did not attempt to take an assignment of the interest of Mexico in disputed territory, and to put herself in the shoes of Mexico in this matter. There are no such words, no such clause, no such intent, to be found from the beginning to the end of that treaty, and no such construction can be put upon it without committing as great an outrage upon English language as some men seem disposed to commit upon what I now consider to be the indisputable constitu-tional rights of Texas. These rights have, in my judgment, been thus indisputably established by the action of this Government. I do not intend now to speak of the policy which governed the public counsels at that time. It is known that I opposed it to the utmost of my ability. But what was done then cannot be undone now. We have heard a great deal for some years past of the odium of repudiation. And, strange to say, the very men who have been loudest in their denunciation against particular States who failed for a time to fulfil their public engagements, are now the loudest in their clamors for a total disregard of the pledged faith of the Union. These are the men, also, who are pleased to assume to themselves the title of Conserva-tives. Sir, if I know anything of conservatism, it is that As to the position that the united States troops were left in the territory at the termination of the war, and that it is the duty of the President, as commander-in-chief, to keep them there, and to hold possession of the country with them against any interference on the part of Texas, until given. This is the nature of my conservatism. And could given. the boundary be settled, I do not consider that it rises to that dignity which would justify an argument to answer it. If the country belongs to the United States by conquest, its Government devolves upon Congress. And if any laws be necessary to defend it, and secure it, it is the duty of the President to apply to the law-raking power for authority to do so. And until Congress makes some disposition of it, or gives him authority to hold it by force natural conflict against Texas for asserting that her rightful boundary does extend to that limit? This is the disgrace, scandal, and infamy which some of you who call yourselves Conservatives would bring upon your country. I belong to no such class of men. I am for abiding by the order of things as I find them constitutionally existing, until they be constitutionally changed. If they get too had to be borne without hope of redress, then I shall be for revolution.

sion of New Mexico this side the Rio Grande, thorities of Texas, until the boundary be it not also his duty to defend in like manner ossession of California until Congress shall sposition of it? The case of California is in every point of view than that of New the the Rio Grande. For I have shown that annot interfere there without the virtual decimant interfere there without the virtual decimant interfere there without the virtual decimant interfere there without the admits of Texas, would be time enough to discuss that question of Texas boundary, which he admits in existence. When the time to regard the law of the other day, that these agitations would never cease until the other day, that thes military possession of New Mexico this side the Kio Grande, against the authorities of Texas, until the boundary be settled, why is it not also his duty to defend in like manner the military possession of California until Congress shall make some disposition of it? The case of California is much stronger in every point of view than that of New Mexico this side the Rio Grande. For I have shown that the President cannot interfere there without the virtual decimal of Texas boundary which he admits the consent of Texas, would be such a law; is not now out the consent of Texas, would be such a law; is not now out the consent of Texas, would be such a law; is not now leave the law of Texas would be such a law; is not now leave the law of Texas would be such a law; is not now leave the law of Texas would be such a law; but none such law is in existence. Whether a law of Congress alone, without the virtual decimal of Texas would be such a law; is not now leave the law of the law of Texas, would be such a law; but none such law is in existence. Whether a law of Congress alone, without the virtual decimal of Texas would be such a law; but none such law is in existence. Whether a law of Congress alone, without the virtual decimal of Texas would be such a law; but none such law is in existence. Whether a law of Congress alone, without the virtual decimal of Texas would be such a law; but none such law is in existence. Whether a law of Congress alone, without the virtual decimal of Texas would be such a law; but none such law is in existence. Whether a law of Congress alone, without the virtual decimal of Texas would be such a law; but none such law is in existence. before us. It will be time enough to discuss that question when it arises. 'All that we now have before us is the mesthat he has no right to decide.

I now go further; and I maintain that if Texas should be resisted by the Mexicans in this portion of the territory lying within her prescribed limits, and should apply to the President for assistance to put down that resistance while this question of boundary is unsettled, he would be bound, under the Constitution, and law of 1795, to afford the necessary assistance. I read from the first section of that authority from Congress in addition to that conferred upon him by the acts of 1795 and 1807. I have shown conclusively, I think, that those acts confer no such authority on him. And now, in conclusion on this branch of the sub-ject, I assert, that if he attempts thus by force to arrest the And if you wish to know what I mean by resistance,

how I mean it should be resisted, I say distinctly, it should be resisted by arms, as lawless force always should be re-

sisted.

I cannot speak for Texas—I have no authority to speak for her—she has men upon this floor who can speak for her. But I have mistaken the character of her people if the spirit exhibited at the Alamo and St. Jacinto would submit tamely to such wanton wrong. The rights and duty of Texas, to my mind, are clear. If the question be not settled, she should extend her jurisdiction over this territory—she should extend her command obedience to be settled. pass all laws necessary to command obedience to her sove-reignty within her limits.

And if the execution of those laws should be opposed by And if the execution of those laws should be opposed by force, either on the part of the people residing in the disaffected section or the army of the United States, she should meet force with force, let the consequences be what they may. And no man need delude himself with the opinion that in such a conflict Texas would be alone. I have lately expressed the opinion that "the first Federal gun that shall be fired against the people of Texas without the authority of law, will be a signal for the freemen from the Delaware to the Rio Grande to rally to the rescue." And I repeat the sentiment here this day. The clanger of battle at Conthe sentiment here this day. The clanger of battle at Concord, Lexington, and Bunker Hill, did not more magically rouse every friend of his country, from Massachusetts to Georgia, in the time of colonial wrongs, than the first roar of Federal artillery in such a cause, at Santa Fe, will start to arms, at this time, every true-hearted man south of Mason and Dixon's line. The former was the beginning of one revolution, and it will be well for those to whom the destinies of this Republic are now committed, to take care that the latter may not be the commencement of another. The people in the slaveholding States of this Union cannot misminions of the Mormons, or who have become a prey to the savages that roam over the immense tracts of country be-tween the Del Norte and the Pacific. No, sir; we have heard nothing of these obligations of the treaty, and this doctrine of holding possession by force without authority of law, saving in that comparatively small portion of territory lying east of the Rio Grande, which falls within the prescribed limits of Texas. "Liberty, property, and religion, stand in no need of protection amongst the mixed and mot-ley herd who have flocked to California from all nations and climes—these sacred rights are perfectly safe amongst Mormons and savages. It is only in slaveholding Texas that they need protection. Now, sir, I say there is no mis-taking the issue. And, I tell you, the people of the South will meet it as freemen "who know their rights, and know-

Mr. Chairman, it gives me no pleasure to speak in this language. I do not wish to be understood as picturing a state of things which would afford me any gratification to behold. I am but proclaiming disagreeable truths, which public duty requires me to utter. I am not insensible to the consequences which would inevitably ensue from such a on. I am, therefore, as anxious as any man can be to avert them if possible; but they can never be averted by the policy of this message. I have for a long time looked upon this question of Texas boundary as the most embar-rassing one before us, and I feel no hesitancy in saying, that I am in favor of a speedy and amicable adjustment of it. I am also for a settlement of all the other causes of irrita-tion and agitation in the country, which now so painfully disturb and distract the public mind, as well as the councils. But it is important that we do not deceive ourselves on these questions. I intend, therefore, to speak plainly and distinctly to you and the country. When we talk of an amicable adjustment, we may as well understand clearly what we mean by it. The President, in his mesgress the settlement of these matters of contention and

ing to settle that upon the plan suggested by the President, provided we can agree upon the terms of disposing of er sectional difficulties. We hear a great deal about settlement, adjustment, compromise, harmony, and union Now, I am for all these. I am no enemy to the Union And those of this House who know much of me, know full well that I mean exactly what I say. I repeat, I am no enemy to the Union—and I am for its preservation and its perpetuation, if it can be done upon principles of equality and justice. Attachment to the Union with me and with the South generally, I think, is a sentiment of patriotism t grows out of the recollections of the past, the glories of the present, and the hopes of the future. It arises from no base calculation of dollars and cents. But I tell gentlemen of the North it is for them now to determine whether i shall be preserved or not. In point of money value, I think it is worth more to the North than to the South. We have heard but little from gentlemen from that section, for eight months past, but eulogies upon the Union. If they are sin-cere in the expression of this deep devotion to the institu-tions of our fathers, it is time for them to present the offering which they are willing to make upon the altar of our common country for its preservation. If they expect the South to make all the sacrifices, to yield everything, and to permit them to carry out their sectional policy under the cry of "our glorious Union," they will find themselves most sally mistaken. It is time for mutual concessions. This Union was formed for the protection of the lives, the liber-ty, and the property of those who entered into it, and those who should fill their places after them. Allegiance and protection are reciprocal; where no protection is extended, no rightful allegiance can be claimed. And no people, in my judgment, who deserve the name of freemen, will continue their allegiance to any Government which arrays it-self not only against their property, but against their social and civil organization. If you, gentlemen of the North, then, intend to ingraft upon the policy of this common Government your anti-slavery views, and to make its action conform to your sectional purposes, it is useless to say any-thing more of compromise, settlement, adjustment, or union. It is as well for us to come to a distinct understanding upon the subject at once. I do not place a low estimate upon the value of the Union to the South; but I do not consider its dissolution, with all the manifold attending evils of such an event in full view before me, as the greatest calamity that could befall us. Far from it. There is no evil which can fall upon any people, in my opinion, equal to that of the degradation which always follows a submission to insult, injury, outrage, and aggression. And whenever this Go-vernment is brought in hostile array against me and mine,

lam for disunion—openly, boldly, and fearlessly, for revolution. I speak plainly.

Gentlemen may call this "treason" if they please. Sir, epithets have no terrors for me. The charge of "traitor" may be whispered in the ears of the timid and craven-hearted. It is the last appeal of tyrants. It is no new word of modern that day comes, if it ever does, "down with the Government" will be my motto and watchword. When I am outlawed by you, I shall become your implacable enemy. I shall never kiss the rod that smites me. And no people who do not de-serve to be scoffed at, trampled upon, and kicked by their oppressors will. I told you that we might as well talk plainly be constitutionally changed. If they get too bad to be borne without hope of redress, then I shall be for revolution.

But having been led to say more upon this subject of the boundary of Texas than I intended, in consequence of the interruptions, I return to the point I was upon. And I again repeat, that if the President should be called upon by Texas to put down illegal resistance to her authorities. I am for concilitation, if it carr be accomplished upon any reasonable and just principles. I am also for making a clean business of it. I am for no partial arrangement. If we aim at peace, let us have no temporary truce, but permanent quiet and repose. This, in my opinion, can only be done by a settlement of all the questions growing out of these territorial acquisitions upon liberal and proper terms. What are such terms? This is the practical point for us now to contain the carcomplished upon any reasonable and just principles. I am also for making a clean business of it. I am for no partial arrangement. If we aim at peace, let us have no temporary truce, but permanent quiet and repose. This, in my opinion, can only be done by a settlement of all the questions growing out of these territorial acquisitions upon liberal and proper terms. What are such terms? This is the practical point for us now to contain the carcomplished upon any reasonable and just principles. I am also for making a clean business of it. I am for no partial arrangement. If we aim at peace, let us have no temporary truce, but permanent quiet and repose. This, in my opinion, can only be a holiday job for a few of your northern States would be a holiday job for a few of your cost, in the end, that seven millions of people in the consequences of whatever follows. The responsation is the upon any reasonable and just principles. I am also for making a clean business of it. I am for no partial arrangement.

did the South ever attempt to control the action of this Govern-ment for the promotion of her peculiar interests? When did she ever ask this Government to pass any law for the promotion of her interests? The North has repeatedly asked for tariff acts and navigation acts, upon which their interests so much depend—which have been repeatedly granted. It is true, that men from the South have often voted for such measures when presented and urged by the North-not because South was particularly interested in them, but because the North was, and they were willing to advance the interest of the North, when, in their opinion, they could do so without injury or detriment to other sections. But when did the South ever invoke the action of this Government for its exclusive benefit? I ask for the instance to be named. I recollect but one, and that is the passage of a law more effectually to secure the rendition of fugitives from labor; which is our right, expressly guarantied under the Constitution; and this you continue to refuse us. And how is it upon this very territorial question which is now the source of the excitement, which the gentleman from Pennsylvania says will never be allayed until the South ceases her endeavors to gain an unjustifiable control over the action of the Government? How does this case stand? Who is it that is attempting to control the policy of the Government to carry out their sectional views and pur-

A public domain has been acquired by the common blood and common treasure of all, and the South, who is charged with endeavoxing to control the Government for their purposes, with endeavoning to control the Government for their purposes, asks nothing but that the common territory, which is the public property, may be opened to the entry and settlement and equal enjoyment of all the citizens of every part of the Republic, with their property of every description; while it is the North who comes here and demands that the whole of this common domain shall be set apart exclusively for themselves, or for themselves and such persons from the South as will strip themselves of a certain species of their property, and conform their views to the policy of the North. I submit it to every candid man in this House, and to every intelligent and every candid man in this House, and to every intelligent and candid man in the world, outside of the House, if this is not a fair statement of the question? The South asks no discrimination in her favor. It is the North that is seeking to obtain discriminations against her and her people. And who leads in this endeavor to control the action of the Government for sectional objects? It is the gentleman himself, who brings this charge against the South. Six deny the charge, and repel it. And I tell that gentleman, and the House, if these agitations are not to cease until the South shall quietly and silently yield to these demands of the North, it is useless to talk of any the latter may not be the commencement of another. The people in the slaveholding States of this Union cannot mistake this question. They understand perfectly well that nothing would ever have been heard of this doctrine, of its being the duty of the President to maintain the possession of the United States over this country against Texas, if it had not been that Texas is a slave State. We have heard nothing of it in California, or Utah, or New Mexico, the other side of the Rio Grande. We have heard nothing of the Obligations of the treaty securing "life, liberty, and religion," to those Mexicans who have fallen within the dominions of the Mormons, or who have become a prey to the nations and the rights pertaining to conquests. These acquisitions belong to the whole people of the United States, as conquerors. They hold them under the Constitution, and the General Government, as common property, in a corporate ca-

> Vattel, in treating on this subject in his work on the laws of nations, says, (book 1. chap. 20, p. 113.)
> "All members of a corporation have an equal right to the use of the common property. But respecting the manner of enjoying it, the body of the corporation may make such regulations as they may think proper, provided that those regulations be not inconsistent with that equality of right which ought to be preserved in a communion of property. Thus a corporation may determine the use of a common forest or a common pasture, either allotting it all to the mem bers, according to their wants, or allotting each an equal share; but they have not a right to exclude any one of the members, or to make a distinction to his disadvantage, by assigning him a less share than that of the others."

The principles here set forth are those upon which I place the merits and justice of our cause. Under our Constitution, the power of making regulations for the enjoyment of the common domain, devolves upon Congress, the common agent of all the parties interested in it. In the execution of this the duty of Congress to pass all laws necessary for an equal and just participation in it. And so far from this common agent having any right to exclude a portion of the "to make distinctions to their disadvantage," it is the duty of Congress to open the country by the removal of all obstructions, whether they be existing laws or anything else, and to give equal protection to all who may avail them-selves of the right to use it. But you men of the North say, that we of the South wish to carry our slaves there, and th the free labor of the North cannot submit to the degradation of being associated with slave labor. Well, then, we say, sage, notwithstanding this threat of force, urges upon Con- as the patriarch of old said to his friend and kinsman, who disputes arose between the herdmen of their cattle : disputes arose between the herdmen of their cattle: "Let dispute arose between the her the right; or, if thou depart to the right hand, then I will go So far as the boundary of Texas is concerned, I am willing to settle that upon the plan suggested by the President, provided we can agree upon the terms of disposing of a share, and let us take a share. And I again submit to an intelligent and candid world if the proposition is not fair and just?—and whether its rejection does not amount to a clear expression of your fixed determination to exclude us entirely

from any participation in this public domain?

Now, sir, all that we ask, or all that I ask, is for Congres o open the entire country, and give an equal right to all the their property of every kind; or to make an equitable divi-sion of it. Is this wrong? Is it endeavoring to control the action of Congress improperly to carry out sectional views and interests? And am I to subject myself to the intended reproach of being an ultraist for insisting upon nothing but what just and right? If so, I am willing to bear whatever o eproach the epithet may impart? If a man be an ultrais. for insisting upon nothing but his rights, with a willingnes to compromise even these upon any fair and reasonable terms without a total abandonment of them, then I am an ultraist.

And I am mistaken in the character of that people amongst whom I was born and with whom I have be whom I was born and when whom I have seen rejected, will not be ultraists too. Be not deceived and do not deceive others—this Union can never be maintained by force. With the condence and affections of the people of all sections of the counfidence and affections of the people of all sections of the country, it is capable of being the strongest and best Government on earth. But it can never be maintained upon any other principles than those upon which it was formed. All free governments are the creatures of volition—a breath can make them and a breath can destroy them. This Government is no exception to the rule. And when once its spirit shall have departed, no power on earth can ever again infuse in it the Promethean spark of life and vitality. You might just as well attempt to raise the dead.

Mr. Chairman, when I look to the causes which lie at the

bottom of these differences of opinions between the North and the South, and out of which this agitation springs; when I look at their character, extent, and radical nature as they necessarily do, into the very organization of society with us, I must confess that unpleasant apprehensions for the future permanent peace and quiet of the different States of this Union force themselves upon my mind. I am not, however, disposed to anticipate evil by indulging those apprehensions unless compelled to do so. It may be that we have the seeds of dissolution in our system which no skill can eradicate, just as we carry with us in our bodies the seeds of death whic will certainly do their work at the allotted time. But because we are all conscious that we must die, it does not follow that we should hasten the event by an act of suicide. the business, duties, and obligations of life to discharge. So with this Government. Because I may have serious apprehensions of the working of causes known to exist, I do conceive it therefore to be in the line of duty to anticipate the natural effects of those causes by any rash or unjustifiable act. I am disposed rather to hope for the best, while I feel bound It is the last appeal of tyrants. It is no new word of modern coinage. It is a term long since familiar to those who know how freedom is lost and how freedom may be won. And I say here, in the presence of this House, in broad day, that I will acknowledge allegiance to no Government that puts the property of the people to which I belong out of the pale of the law, and which attempts to fix public odium and reprobation upon their social order and civil organization. When and bitter sectional feelings of the North be kept out of the National Halls. This is a conclusion that all must come to, who know anything of the lessons of history. But our business to-day is with the present, and not the future; and I would now invoke every member of this House who hears me, with the present and a six-lenges of members. would now invoke every member of this singleness of purserve to be scoffed at, trampled upon, and kicked by their oppressors will. I told you that we might as well talk plainly upon this subject, and I intend to do it. And it is for you now, who have nothing on your lips but "union," if you are this time surrounded. It is a duty we owe to ourselves, to the now, who have nothing on your lips but "union," if you are in carnest in your professions, to come forward and assist in devising the ways and means of sustaining it. I have on a former occasion given my views upon the subject of our differences, and I intend to repeat them before I close; but I have not yet heard anything from those who compose the majority in this House of a conciliatory character. If your only reliance for barmeny, peace, and union is force, come out and say so; or if you have any plan of conciliation, submit it. I am for conciliation, if it carr be accomplished upon any reasonable and just principles. I am also for making a clean business of it. I am for no partial arrangement. If we aim at peace, let us have no temporary truce, but permanent quiet and repose. This, in my opinion, can only be

I have told you, sincerely and honestly, that I am for peace and the Union upon any fair and reasonable terms—it is the most cherished sentiment of my heart. But if you deny these terms—it you continue "deaf to the voice" of that spirit of justice, right, and equality, which should always characterize the deliberations of statesmen, I know of no other alternative that will be left to the people of the South, but, sooner or later, "to acquiesce in the necessity" of "holding you, as the rest of mankind, enemies in war—in peace, friends."

CALIFORNIA.

Extracts from a Letter just received from a gen-tleman residing at San Francisco, dated July 14, 1850. "I know, my dear sir, you can scarcely fail to doubt, and perhaps discredit, these statements. But what is true with respect to the almost magic growth of San Francisco, is not less true when applied to other towns in the interior and on the same waters. Look, for instance, at Marysville, on the upper waters of the Sacramento—last year a wilderness, now a city, whose streets are thronged with a busy commerce and boasting of a population of five thousand inhabitants. Look at Fremont, Vernon, and Yuba City, scarcely a year old, and yet rivalling hundreds of the towns and cities in the old States that have boasted of their progress for a hundred years. Look at Stockton and Sacramento City, already surpassing in wealth and population, and in all the elements of succ enterprise and trade, nine-tenths of the political capitals of the States east of the Rocky Mountains. Look at Benicis, possessing an unrivalled harbor, at the natural head of ocean navigation, quadrupling her population and increasing her trade and commerce tenfold within the last four months; the favored selection of our Pacific steamers; the depot of our military and naval stores; the anchorage and shelter of our ships of war, and the destined commercial emporium of the Pacific! Look at these things, and then cease to marvel at what I have told you of San Francisco. If you will refer to my former letters on this subject, you will find, I think, that I have given you satisfactory causes why you cannot reason of things in California as you would in any other country. Recollect that our population is doubling every twelve months. Indeed, there are a thousand reasons that could be given, but it would consume too much time, and patience, and paper to write them down. So I will content myself with the single observation, that you do know and can know nothing about California without being here on the spot. Every thing is in a state of transition. The most important results are developed with an astonishing rapidity. Even here property-holders do not feel perfectly settled and safe in their position, lest the uncompromising necessities of the vast commerce of California should demand the removal of its great emporium to a place better adapted to its interests and its wants. Indeed, my dear sir, you can have no conception of the state of affairs here. whether with respect to our commercial or political condition. We are an absolute anomaly; and California has been more misrepresented, more misunderstood, more wronged, by both the people and Government at home, than you can possibly have any just idea of. Why do they hesitate to admit us? Here are we, paying revenue duties, without the advantages of an admiralty court; without the aid of admiralty jurisdiction in our commercial operations; without United States courts; with none of the immunities of the United States laws; and the only attention which politicians and families at home have deigned to pay us has been to make us pay the customs. What have we in return for this? We are not a State, and therefore are not entitled to the advantages or legal protection enjoyed by the States. These we are denied; and that too in the face of the crying necessities of a commerce with every portion of the habitable globe, already rivalling that of any State in the Union. Here we are, a nondescript inchoate State, without national law, or a constitutional legal organization, to govern it and to provide for its wants. (You cannot sell a ship for a just debt for want of courts of competent jurisdiction.) In fact, we know no law and have felt no law, except that law which, in violation of the eternal political truth that the benefit should accompany the burden, smites our commerce with the stern and unrelenting power of taxation, and cripples it by its unjust and unrequited exactions. We are not a State, as I have said : nor are we a Territory. The home Government has refused to recognize us as the one, and neglected to provide for us an organization and officers for the other. We have thus been thrown back upon ourselves. Were it not for our present State laws (imperfect, crude, and meager as they are) we should still be in a state of hopeless anarchy. Our position is without precedent. While we are paying the revenue tax, as a part and for the support of the Union, we are excluded from all the benefits of without the pale of the National Union, under a separate, selfcreated, independent organization. California, in a word, is de facto if not de jure an independent nation, paying millions of tribute to a Government which spurns her offer of allegiance; spreads no protecting ægis over her, and gives her nothing in return. Shame! O shame!

"These sentiments are daily gaining ground here, and a feeling of just and deep indignation is taking possession of the minds of the people; and if Congress will not admit us, we shall be compelled of necessity to take care of ourselves, and they will lose us forever. There is a time when forbearance ceases to be a virtue. These are some of the manifold wrongs under which we suffer. Yet, in the face of all these multi plying and complicated difficulties, the onward progress of California, in all the essentials of commercial and national greatness, is without a parallel. Witness the growth of the young cities above referred to ; witness the recuperative clasticity and power with which this city has thrice risen from a succession of calamities that would have crushed the spirit of any other people. One, two, THERE devastating fires within the last few months have swept over it; and in each case, Phoenix like, a new and improved creation has instantly sprung from its ashes in renovated splendor and beauty. There have been fewer failures here under the circum than in any other commercial community in the world in which the same amount of interests are involved. Speculation has been very rarely wild or inflated, because every thing is on a cash basis. What better comment on the soundne of the position of affairs here can you ask than the enormous shipments of gold dust, following immediately on the heels of the two last great fires ?- shipments made, too, by the very class of men (the merchants) who were the heaviest losers The most unflagging courage and perfect confidence prevail-Every day's report from the mines brings news of new and richer discoveries than have ever been known before. Gold is beginning to come down in incredible quantities. The veins of quartz rock will yield immensely as long as the world stands. There is, in sober truth, no exhaustion, no end to the wealth of the mines. Nature has established a bank here sufficient not only to supply our wants, but the wants of the whole civilized globe; and the growing necessities of California have only to check upon this bank, and whatever she needs to make her great, prosperous, and powerful, is ever ready to meet the demand."

THE HOUSE OF BURNS.—The house in which the author f "Tam O'Shanter" and "Bonnie Jean" lived and died, in Dumfries, which was recently advertised for sale by public suction, has been purchased by his son, Lieut. Col. W. N. Burns.

A train of thirty-four first class cars, containing over two thousand persons, arrived at Boston on Friday from Wor-cester. The passengers were from the latter place on a plea-

PORTLAND, (Mr.) Ave. 24 .- The gravel train on the Kennebec and Portland Railroad was thrown from the track this morning, in Cumberland, killing four Irishmen, and severely injuring several others, some of whom cannot survive.
The accident was caused by timbers and stones being maiciously placed upon the track.

TNFORMATION WANTED. - Whereas JAMES TNFORMATION WANTED. — Whereas JAMES HANSBROUGH, a young man now about 24 years of age, left the county of Fanquier, in the State of Virginia, in January, 1845, and went to the county of Harden, in the State of Kentucky, where he resided till November, 1845, when he left, intending to spend some time in Lincola county, Missouri, and then to proceed to the Territory of Oregon. Since 1845 his relatives in Virginia have not heard from him, and cannot ascertain his present locality. By the recent death of his father, Elijah Hansbrough, the executor of said deceased is anxious to hear of or from him. Any person who may have any information respecting said James Hansbrough will please address a letter to me on the subject, directed to Somerville, Fauquier county, Virginia. Fauquier county, Virginia.

DAVID HANSBROUGH,

Executor of Elijah Hansbrough, dec